

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, et al.,

Plaintiff,

vs.

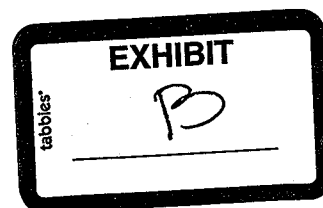
CASE NO. 05-CV-00329-GKF SAJ

TYSON FOODS, INC., et al.,

Defendants.

VIDEOTAPED DEPOSITION OF ROBERT HUBER
TAKEN ON BEHALF OF THE DEFENDANTS
ON MAY 27, 2008, BEGINNING AT 9:15 A.M.
IN OKLAHOMA CITY, OKLAHOMA

ALSO PRESENT: STESHA FERGUSON, Videographer
REPORTED BY: Laura L. Robertson, CSR, RPR



1 **Q. Did anyone on your behalf run any type of**
 2 **search with regard to other documents that may be**
 3 **within DEQ, besides the studies, you know, whether**
 4 **they are maps, surveys, memos, e-mails, on the topic**
 5 **of onsite wastewater disposal in the Illinois River**
 6 **Watershed?**

7 A. Within the last three weeks?

8 **Q. In preparation for this deposition.**

9 A. I had asked some of our staff to run some
 10 numbers off of our data systems.

11 **Q. All right. Explain what that means.**

12 A. We have an onsite sewage database that was
 13 established in 2002, and I asked them to form numbers
 14 as the number of authorizations issued in the counties
 15 in the basin. I also asked them to pull numbers on
 16 526s, which is a report on failing systems that our
 17 staff are supposed to do when they investigate.

18 **Q. Is that also a database?**

19 A. It is in that database, yes, the onsite
 20 sewage database.

21 **Q. All right. DEQ --**

22 A. I believe that's where it is at. I don't
 23 run the databases.

24 **Q. All right. To the best of your knowledge,**
 25 **DEQ has what you refer to as onsite sewage database**

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specifically talking about that onsite. It is not a
 complaint record. It is just the investigative
 report.

Q. The investigate -- if there is a complaint
issued, does DEQ maintain a complaint file?

A. Yes.

Q. And so this report 526 would be one
component of the complaint file?

A. It may be contained in the complaint record,
 and it probably is, but the manipulation data is
 easier manipulated out of the onsite database.

Q. I'm sorry. Go ahead. This onsite sewage
database, what other types of information is tracked
in there?

A. It is authorizations issued, it provides
 information as best we can have the operation who owns
 the system, installation dates, types of system. It
 will identify whether they are alternative or not.
 Like I said, I don't manage databases.

Q. Who is the keeper of this database at DEQ?

A. Keeper?

Q. Who manages the database?

A. Our format is the database. The UCLS
 division is the keeper of the database.

Q. I assume there is a database administrator.

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1 **that has data back to 2002?**

2 A. Yes.

3 **Q. And in that database, it would reflect new**
 4 **permits issued for systems, construction or**
 5 **modification of systems; correct?**

6 A. Yes.

7 **Q. Would it include information regarding**
 8 **complaints associated with systems?**

9 A. That database would not.

10 **Q. All right. When you said -- you said a 526**
 11 **a moment ago. Explain to me what you're talking**
 12 **about.**

13 A. 526 is an investigative report form that
 14 when an environmental specialist investigates a
 15 failing septic system based on a complaint, they are
 16 to fill out the 526 that identifies the potential
 17 cause for the failure and provide the diagram map,
 18 give us some baseline information, and that
 19 information is placed in the database.

20 **Q. All right. I think a moment ago you and I**
 21 **had some confusion, because I asked you about what**
 22 **complaint information being there in this database,**
 23 **and you said no, but you said that these specific**
 24 **investigation form information is in the database?**

25 A. Because it is talking -- that is actually --

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A. Yes, probably.

Q. Who is that?

A. I would assume it would be someone in our IT
 systems or database administrator. We have a data
 input person who inputs that information.

Q. Who would be the management person under
whom this database would fall?

A. Debbie Nichols.

Q. And what is her title, sir?

A. She is Environmental Program Manager.

MR. MCDANIEL: Trevor and Bob, I don't
 recall the state producing this database, am I in
 error?

MR. HAMMONS: The complaints and the 526s
 were in fact produced.

MR. MCDANIEL: I'm asking -- I'm talking
 about the database.

MR. HAMMONS: I don't know. I believe that
 the information in the -- all of the complaints were
 printed out and produced in November 2006, which
 contain the database. I don't know if the entire
 database was printed out and produced.

MR. MCDANIEL: I know we have complaints,
 because I brought some today we are going to talk
 about.

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MR. HAMMONS: Yes.

MR. MCDANIEL: But as far as this database that would print out permits, ownership, installation dates, owners, et cetera, I don't recall having access to that.

MR. HAMMONS: Honestly, Scott, I don't know if it has been produced. But we will.

MR. MCDANIEL: We certainly aren't going to argue about it today, but I'm reserving all of our rights with regards to further examination since I'm under the impression we don't have this database.

Q. (BY MR. MCDANIEL) Do you use the database, sir?

A. Occasionally.

Q. If you asked for information from the database from a particular county, can they print you off reports for a particular county and particular time period?

A. Yes.

Q. Can you personally access it from your desktop, or do you have to make a request of someone?

A. There is an online Internet access for DEQ employees that can access that.

Q. But it is secure, I couldn't get on there and log on; right?

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And this is a complaint summary that was provided to me per request out of the complaint database.

Q. All right.

MR. MCDANIEL: Would you go ahead and mark this as Exhibit 20.

(Defendant's Exhibit 20 marked for identification)

Q. (BY MR. MCDANIEL) All right, the first page of Exhibit 20 itself is not a printout from the system, someone compiled it?

A. That's my word document that I compiled.

Q. All right. That's why I asked whether you prepared the first sheet. You mentioned that the database has information back to 2002, and your summary sheet says, appears to state this is information back to June 12th, 2002; correct?

A. That's correct.

Q. Sorry, sir?

A. That's when the database was created.

Q. Does DEQ have any system for managing information older than 2002 related to onsite systems for the counties in the Illinois River Watershed?

A. Only what is at the county offices.

Q. So permit authorizations or the investigations, that documentation is at the county

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A. As far as I know.

Q. Okay. We got on this topic. You said you had some reports run from that database; is that correct?

A. Uh-huh.

Q. Can you identify those for me, please?

A. This is a summary.

Q. This report, it says, "System installation based on onsite database authorizations, June 12th, 2002 to present?"

A. Yes, that's the top part.

Q. All right. Well explain to me how to read that.

A. This is my summary sheet, okay. Top part is dealing with the onsite system authorizations issued in the respective counties, since 2000, 6-12-2002.

This information down here is summary information from the 526s, that are also contained in that report, there are parts of that --

Q. You said it is your summary. Did you personally prepare that --

A. No, I actually asked the staff to do that for me. This is actually a summary sheet of the 526s. They are listed for the counties that I asked for. This is just a raw number that they pulled for me.

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offices?

A. Inspections.

Q. Inspections. So the two I mentioned plus inspections are at the county offices?

A. Each county should probably have a complaint record. The official keeper of the complaint record is Oklahoma City. The official keeper of the onsite record is the local office.

Q. Explain what the policies or procedures are for the people working in the county offices as far as copying the Oklahoma City files on permits, inspections, et cetera?

A. Authorizations are issued, generated from Oklahoma City and sent to the local office with the respective counties that the work has been done.

Local office issues the authorization based on the information that they have, based on the soil test report for onsite sewage.

Once the system is installed, inspections performed, front copy of that inspection is then faxed into Oklahoma City to be placed into the database.

Q. Will Oklahoma City DEQ, will its files mirror what is in the county files?

A. If it was a perfect world.

Q. Okay. Understandable. What I'm trying to

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1 Q. Records?

2 A. In the database.

3 Q. Can there be multiple records on the same
4 problem?

5 A. It is possible.

6 Q. Where you have in handwriting, you said,
7 "Number of complaints sewage," help me to understand
8 what you have written in the right side?

9 A. Well, basically one of the questions I also
10 asked in gathering this was how many complaints on
11 onsite sewage complaints have we received, and they
12 provided initial number of 1025, and this is from July
13 of '98, because we did a database switch in the
14 previous complaints are in a different subset database
15 some place.

16 But Lynn, who is the data, our manager on
17 that, said, "Yes, there is another group because of
18 the 109," so we had a total of 1134 records that they
19 showed in the current database that were tied to
20 onsite complaints on sewage and sewage alone since
21 that time.

22 Q. All right. Onsite sewage system complaints,
23 are they tracked in a separate database for the onsite
24 sewage database we have already discussed?

25 A. This is -- this comes out of the complaint

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1 database, which is all complaints filed in the state
2 of Oklahoma. This information, the authorization and
3 the 526 is in the onsite sewage data.

4 Q. I understand. The complaint database, how
5 far back in time does it contain records?

6 A. Creation of the agency.

7 Q. 1993?

8 A. '93, yes.

9 Q. All right. I gather that when you say
10 complaints that are tracked, it is complaints on
11 issues other than, including but also including issues
12 other than onsite?

13 A. Any citizen complaint can be filed through
14 that system.

15 Q. So dumping of tires on the side of the road?

16 A. That would be an example.

17 Q. Okay. Is the complaint database, are the
18 different types of complaints or different types of
19 issues, do they have some sort of coding, numerical
20 coding like an onsite septic system complaint would be
21 distinct from a tire dumping?

22 A. There are source codes that helps put that
23 out.

24 Q. And that's how this individual was able to
25 search and generate this number of 1,025?

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A. Yes.

Q. And who is -- you mentioned a gentleman a
moment ago that assisted you with this. Who was that?

A. Well, Lynn Moss.

Q. I'm sorry?

A. That's Lynn Moss.

Q. And what is his title?

A. She is a level III manager, well, she's a --
she's not environmental specialist, she's a program
manager and she has been over our complaints and
process in the complaint systems since the beginning.

Q. Well, I may be mistaken about this one, too,
Trevor, but I don't recall being provided this
complaint database.

MR. HAMMONS: You were provided the
contents, all of the contents, everything, I believe
from those four counties was printed out in one of the
nine boxes by UCLS. I don't know if you actually got
the database itself, but you got the contents of the
database.

MR. MCDANIEL: Okay. Well, just for the
record, I'm reserving our rights on that issue to the
extent accessing the database would prompt additional
questioning of this witness.

Q. (BY MR. MCDANIEL) Okay. Now, again, let's

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finish Exhibit 20. There is a handwritten, a sheet
with handwritten notes is the next page. Tell me what
that is.

A. This is the breakdown, like Adair County,
subsurface 419, aerobic 41, Adair County, 419. That
is the handwritten summary that I was provided with,
that then went onto this sheet.

Q. All right. Go ahead, sir, while you have
it, tell me, the sheets after that, are those actual
printouts from the onsite sewage database?

A. As far as I know, yes, this is the 526
summaries.

Q. Is that true for all of the remaining pages
of the exhibit?

A. Yes.

Q. So the printout on all of the remaining
pages is just the investigation form data?

A. Summary of the investigation.

Q. You haven't run a printout of the
authorization's numbers?

A. No.

Q. All right. Can I have it back? On this
printout of these 526 reports, I see a heading that
is -- it is called Design Flow. Tell me what is that
information that's in that column?

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